



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

August 6, 1998

Captain Robert Taylor
Amarillo Police Department
200 S.E. Third Avenue
Amarillo, Texas 79101-1514

OR98-1865

Dear Captain Taylor:

You have asked whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 117440.

The City of Amarillo received a request for all police records concerning named individuals. You assert that the records are confidential on the basis of common-law privacy under section 552.101 of the Government Code and are also protected from disclosure under section 552.108 of the Government Code. We note initially that some of the information submitted to this office for review is confidential pursuant to section 58.007(c) of the Family Code, which reads in part:

Except as provided by Subsection (d), law enforcement records and files concerning a child may not be disclosed to the public

Subsection (d), which concerns the transfer of records in certain circumstances, is inapplicable here. *See also* Fam. Code § 51.02(2) (defining "child"). Thus, you may not release to the requestor the information that we have marked as confidential juvenile records. We will address your arguments concerning the remaining information.

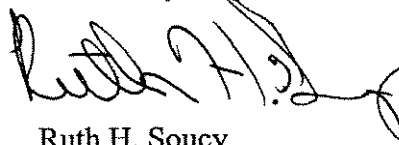
You assert that the request for all police information held on a named individual is, essentially, a request for the criminal history of that named individual, which could implicate privacy interests protected under section 552.101. We agree that the compilation of offense

information, or the lack of offense information, concerning a named individual constitutes¹ a criminal history record of that individual.² We note, however, that the remaining information consists of a report in which the individual is apparently a victim. In this particular situation, it does not appear that the named individual's privacy interests are implicated.

However, we agree that section 552.108 protects from disclosure all but the front page offense report information.³ Section 552.108(a)(2) protects from disclosure information that is held by a law enforcement agency or prosecutor that deals the detection, investigation, or prosecution of crime in relation to an investigation that did not result in conviction or a deferred adjudication. You assert and the report reflects that the investigation was closed and the case was not prosecuted, so it did not result in a conviction or deferred adjudication. Thus, section 552.108(a)(2) protects the remaining information at issue from disclosure.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Ruth H. Soucy
Assistant Attorney General
Open Records Division

RHS/ch

Ref: ID# 117440

¹The privacy interest in criminal history record information has been recognized by federal regulations which limit access to criminal history record information which states obtain from the federal government or other states. See 28 C.F.R. § 20; see also *United States Dep't of Justice v. Reporters Comm. for Freedom of the Press*, 489 U.S. 749 (1989) (finding criminal history information protected from disclosure under Freedom of Information Act, 5 U.S.C. § 552, and the Privacy Act of 1974 ("Privacy Act"), 5 U.S.C. § 552a). Recognition of this privacy interest has been echoed in open records decisions issued by this office. See Open Records Decision Nos. 616 (1993), 565 (1990), 216 (1978), 183 (1978), 144 (1976), 127 (1976).

²You indicate that, pursuant to section 552.108(c), you do not seek to withhold from disclosure the front page offense report information.

Enclosures: Submitted documents

cc: Ms. Debra Keeney
500 S. Taylor, Suite 100
Amarillo, Texas 79101
(w/o enclosures)